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11 Attorneys for Defendants Atheros Communications,
12 Inc., Dr. Willy C. Shih, Dr. Teresa H. Meng,
Craig H. Barratt, Andrew S. Rappaport, Dan A. Artusi,
13 Charles E. Harris, Marshall L. Mohr, and Christine King

14 UNITED STATES DISTRICT COURT
15
16 NORTHERN DISTRICT OF CALIFORNIA
17
18 SAN JOSE DIVISION

18 JOEL KRIEGER, Individually and on Behalf)
19 of All Others Similarly Situated,)

20 Plaintiff,)

21 vs.)

22 ATHEROS COMMUNICATIONS, INC.,)
23 DR. WILLY C. SHIH, DR. TERESA H.)
24 MENG, DR. CRAIG H. BARRATT,)
25 ANDREW S. RAPPAPORT, DAN A.)
26 ARTUSI, CHARLES E. HARRIS,)
27 MARSHALL L. MOHR, CHRISTINE)
28 KING, QUALCOMM INCORPORATED,)
and T MERGER SUB, INC.,)

27 Defendants.)

Case No. 11-CV-00640 LHK

Class Action

**DECLARATION OF DAVID M.
FURBUSH PURSUANT TO CIVIL
LOCAL RULE 79-5(d)**

Judge: Hon. Lucy H. Koh
Date Action Filed: February 10, 2011

1 I, DAVID M. FURBUSH, declare as follows:

2 1. I am a partner of the law firm of Pillsbury Winthrop Shaw Pittman LLP,
3 attorneys for Defendants Atheros Communications, Inc. (“Atheros”), Dr. Willy C. Shih, Dr.
4 Teresa H. Meng, Craig H. Barratt, Andrew S. Rappaport, Dan A. Artusi, Charles E. Harris,
5 Marshall L. Mohr, and Christine King (collectively, the “Atheros Defendants”). I submit
6 this Declaration pursuant to Civil Local Rule 79-5(d), and in support of Plaintiff Joel
7 Krieger’s Administrative Motion to File Under Seal Portions of Plaintiff’s First Amended
8 Class Action Complaint and Exhibit A Thereto, filed on June 9, 2011. I make this
9 Declaration based on personal knowledge, except for any items stated on information and
10 belief, which I am informed and believe are true. If called as a witness, I would testify to
11 the facts set forth below.

12 2. On January 5, 2011, Atheros announced that it had entered into a definitive
13 merger agreement, pursuant to which defendant Qualcomm Incorporated would purchase
14 Atheros for \$45 per share in cash, representing an enterprise value of \$3.1 billion.

15 3. On June 9, 2011, Plaintiff filed an amended complaint that referenced and
16 attached as an exhibit a presentation prepared by Atheros’s investment advisor, Qatalyst,
17 for the Atheros board of directors in connection with the merger agreement (“Qatalyst
18 Presentation”). That document was produced by the Atheros Defendants in the Delaware
19 Action, designated “Highly Confidential” pursuant to the confidentiality order in that case,
20 and provided to Plaintiff in this action pursuant to agreement that Plaintiff would abide by
21 the Delaware Action confidentiality order. The parties subsequently submitted, on June 8,
22 2011, a similar stipulation and proposed confidentiality order in this action. (Dkt. 43)

23 4. The confidentiality order in the Delaware Action, and the proposed
24 confidentiality order in this action, both require that any document that discloses,
25 summarizes, describes, characterizes or otherwise communicates documents designated
26 “Highly Confidential” be filed under seal pursuant to Civil Local Rule 79-5.

27 5. The Qatalyst Presentation contains sensitive and confidential information,
28 including long-term projections (through 2015) that are not disclosed by the company as a

1 matter of course and were not disclosed in its proxy statements in connection with the
2 merger agreement; discussion concerning Atheros's business strategy and positioning for its
3 products (including strengths and market threats thereto); and competitive analyses. The
4 long-term financial projections could have the effect of setting investor expectations for the
5 future performance of the company (which is now owned by Qualcomm) based on long-
6 term projections that were never intended for use or reliance by the investing public.

7 6. For the foregoing reasons, the Atheros Defendants respectfully request that
8 this Court grant Plaintiff's Administrative Motion to File Under Seal, dated June 9, 2011.

9 I declare under penalty of perjury under the laws of the United States of America
10 that the foregoing is true and correct.

11 DATED: June 17, 2011

12 /s/ David M. Furbush

13 David M. Furbush
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